

THE
Royal Charter
For Establishing a
CIVIL GOVERNMENT

AT
GIBRALTAR, &c.

To which is prefixed a
PREFATORY DISCOURSE,
Recapitulating the BENEFITS which have been
proposed therefrom.



Europa ab Afro,

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ROYAL ORDER

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Plant a Good Mind in a Good Soil

I*T is a fine Sentiment of a Great Man, who annexed foreign Countries to the Crown of England, and knew how to govern, as well as conquer them; " That, as " Nature has instructed the goodliest Cedars " on the high Mountains of Lebanon, those " Kings of Trees, to thrust down their Roots " between the Cliffs of hard Rocks, the better " to bear themselves against the strong Storms " that blow there : So has Reason taught the " Kings of Men to root themselves in the " hardy Hearts of their faithful Subjects. " And as those Kings of Trees have large " Tops; so have the Kings of Men large " Crowns ; whereof, as the first would soon " be broken from their Bodies, were they not*

" under-

“ underborne by many Branches; so would
 “ the other easily totter, were they not fasten-
 “ ed on their Heads with the strong Chains
 “ of CIVIL JUSTICE and MARTIAL DIS-
 “ CIPLINE.”

As a Martial Power is necessary to defend
 a Country from Invasions; so, to make that
 Country abound in all the Fruits of Peace and
 Plenty, a Civil Administration, founded up-
 on approved Laws, has been ever allowed
 equally requisite. And as Garrisons are use-
 ful to preserve a People from the Encroach-
 ments and Depredations of their Enemies;
 so are Courts of Justice, those civil Fortifi-
 cations, to protect them in their Dealings
 from the Spoil of one another. The wilder
 Species of Justice may be needful, where Force
 is to be used, and Conquests are to be made, or
 maintained; but the civiliz'd kind must be
 exercis'd, for the Improvement of those Con-
 quests to social and profitable Ends, by the
 Encouragement of Arts, the Advancement of
 Traffick, and the Security of Property. Nay,
 some have gone so far, as to affirm, That Com-
 merce is of such a nature, that it will no more
 flourish without the cherishing Warmth of Ci-
 vil

vil Government, than a tender Plant, which requires the Influence of an indulgent Sun, can live in Greenland. And indeed, the Success of other Countries, in having a Civil Jurisdiction, where a Military Power was also needful, (as in new-conquer'd and frontier Towns) may sufficiently demonstrate the Expediency, or rather indispensable Necessity of such an Establishment, in Places under the like Circumstances.

*Many Observations of this kind have been particularly applied to GIBRALTAR; and such a Constitution there, has been repeatedly recommended and advis'd; as what would bring to pass all those Effects, and settle us in the Enjoyment of all those Advantages, which, by that commodious Situation, we are capable of commanding. We have been told, that this want of a well-constituted Civil Power, was the greatest Misfortune of that Place; and that if such a Power there were authoriz'd, it was not doubted but it would draw such Numbers of his Majesty's Subjects to resort thither, as would constitute a Factory that would be no less considerable, than at most Trading Ports in those Parts;
and*

*and the more likely at this Juncture, if Leghorn has suffer'd such Desolation by the late Earthquakes, as has been represented. Further, that from such a Power, the Benefits design'd by Queen Anne of a free Port, might no longer be engross'd by Foreigners, especially the Jews and Moors, who have so numerously intruded themselves there; and that, by such Civil Administration only, all Merchants and other Dealers might have the most speedy Relief against any unfair Practices, by a summary Decision of all controverted Cases; for Bargains and Agreements are of little Efficacy among private Men, but by virtue of those Courses which the Law hath provided, for compelling both Parties to Performance. And as Contracts are vain and ineffectual, where no Law is to be had, (both for the Restoration of Right, and Punishment of Wrong-doers) so Trade will be fruitless, between those who have no way of bringing each other to Justice. And as all Representations made in England are inconsistent with Dispatch, which is the Life of Negociation; so Experience has clearly demonstrated, how little Redress is to be expected from such a dilatory Method. To
this*

this Defect has been further imputed that Discouragement of Commercial Intercourse with the Inhabitants, during the late Peace with the Spaniards; which has made the Debts of the Town, from the Shop-keepers and other Retailers, to the Merchants, (who are often under a Necessity of trusting them) very burdensome. Moreover, to this Defect, or want of a Civil Power, has been attributed another great Discouragement of their Trade, arising from the Baseness of their Coin, increased by the counterfeiting Jews; whereby all Commodities imported to the Garrison are exalted in their Price, proportionable to the Embasement of the Money that is given for them.

*It has also been presumed, that many other Advantages would arise from the Settlement of a Civil Jurisdiction in this Place, besides the Advancement of Trade; such as might even defray the Expence of the Garrison. For allowing, that it is Threescore Thousand Pounds a Year Charge, or more, to the Crown of England; the Security which Gibraltar is, or may be of, only to our valuable Trade up the Levant, would sufficiently avail, it has
been*

*been thought, for the same. But to ease the Crown even in that Particular, those Advantages, through the Means aforesaid, have been proposed to arise, from the bringing of the Jews there under proper Stipulations; applying the Rents of Houses, and Gardens, and Fines upon Entry, with the Duties that were exacted by the Foreign Consuls there, to proper Uses; also from Acknowledgments for the landing of Goods, as at Leghorn, and other Free Ports; Anchorage from Ships that enter the Bay; and even the making all Ships that sail through the Streights Mouth, tributary, has been thought as feasible in us, as in the King of Denmark, for letting them pass the Sound; the granting of Leases for Terms of Years; the Resumption of the Prince of Hesse's Donations to the Spaniards, during his Government; and some gentle Taxes upon the Cattle and Liquors consumed there. From some of which Articles alone, without insisting on all, or others which might occur, great Profit has long since been promised, under the Direction of a Civil Government, to be made of this Place, with little Burden to the People: For where a People flourish, they will be
more*

more chearful under moderate Contributions, than where they do not, in being wholly exempt from them.

But all the Benefits proposed from a Civil Government at Gibraltar, may now be reaped in their full Scope; since his Majesty, with the Approbation of his Ministry, has created one there by his Letters Patent (hereunto annexed) in such an ample and effectual manner. And it will certainly be look'd upon, as a Monument of no small Honour to his Government, That after all the extraordinary Care and Charge used in preserving and securing this important Place, by the impregnable Fortifications raised there, and the Supplies and Recruits wherewith it has been, from time to time, maintain'd (enough of themselves to have banish'd all the Surmises of a Rendition, wherewith Ignorance or Faction have alarm'd the Nation) his Majesty has now graciously vouchsafed this most convincing Proof of his laying fresh Hold, and taking, as it were, new Possession of the Place, with a most retentive Hand, by thus transplanting the Laws and Liberties of England, to root themselves in that Spanish Soil; by

b

which

which Means, Peace may have its Victories there, no less glorious than have been those of War; and that Kingdom may be led to blush, by beholding in this Mirror a Civil Conquest made over it, superior to that which was made there by our Arms: Like an old Stock, which, by grafting, is brought to bear Fruits it was a Stranger to, and far fairer than any of its own natural Production. For by this Patent, the four Jurisdictions following are ordain'd to be open'd at Gibraltar, viz.

I. A Court of Civil Pleas.

II. A Court of Appeals.

III. A Court of Quarter Sessions.

IV. A Court of Oyer and Terminer; or of Criminal Jurisdiction.

AND because it has ever been, by all wise Administrations, look'd upon as a difficult Kind of Geography, at first, to delineate and lay precisely out the Bounds of Authority; it is prudently provided in the said Patent, that whatever Additions, or Amendments, in the Civil Constitution thereby instituted, shall hereafter, from any farther Observation and Experience there, appear necessary; the same may be effected, upon proper Application,

cation, by (the least expensive and most expeditious Means) an Order of Council; whereby this new-erected Constitution at Gibraltar may receive gradual Improvements, till it is brought to the utmost Perfection; of which some Specimens already appear, (hereunto likewise subjoin'd) which have been obtain'd thro' the Instance and Procuration of the Honourable Gentleman, who is now invested with the Judiciary Dignity of that Place; upon which Dignity the few following Considerations may suffice to conclude this prefatory Discourse.

That it must surely be a special Happiness to an able and upright Subject, a Man who is knowing in the Rules of Justice, and resolute to put them in Practice, in spite of Prejudice, Partiality, or Corruption, to be thus distinguish'd by his Prince, and made the first Dispenser of Laws in a Country; to be invested with such happy Opportunities, such a large and comprehensive Power of protecting Virtue and punishing Vice, as gain'd the most venerable and permanent Fame to the Legislators of old; who have made themselves exemplary to latest Ages, and their Legislature coercive, when the Lawgivers were no more.

It must also be great Happiness to a Prince, first, to have good Men, fit to be chosen into such Posts; secondly, the Sagacity to make Choice of them; and lastly, the Steadiness to hold them in good State and Reputation: knowing that a Support unsuitable to their Dignity, or the calling of Judges into question, upon the Remonstrance of Caprice or Interest, more than good Reason of Complaint, has reflected upon the Seat of Justice itself, or even the Power that elected them into it; no less than a Connivance at their Corruptions, has given just Discontentment to the People.

Lastly, (not to repeat the Commercial Improvements proposed from thence) it must be no small Happiness to the Military Government at Gibraltar, that a Civil Power is thus constituted, and going over, as it were to relieve them in what has been Part of their Duty. There is a Harmony between them, visibly intended by the Charter, which, no doubt, they will mutually cultivate to the utmost Expectation. We have been assured, in some Discourses written upon Gibraltar, that the commanding Officers care not (and certainly

tainly they are much in the right) to interfere and determine in Civil Cases; since it is not only eccentric, and out of their Province, but what therefore might so expose their Decisions to censure, that the Judge might be in Danger of bringing Himself to Judgment. Wherefore they cannot but look upon such a Jurisdiction as an agreeable Alleviation of their Care; and as what is design'd to circumscribe their Attention more particularly within its proper Sphere; in which the Courage and Conduct of the Officers, the Ingenuity and Industry of the Engineers, and the Vigour and Vigilance of the common Soldiers, from our first Acquisition of the Place, to this present Time, have been singularly Praise-worthy: And it is not to be imagin'd but the same Loyalty, which has inspir'd them to obey their Prince in the bravest Acts under a Military Command, will make them no less obedient to the same Royal Authority, represented in the Person of a Civil Magistrate: Obedience to Laws being no less necessary for the Prosperity of a Place, than Force of Arms for the Possession or Preservation of it. Thus thought the ancient Romans; and one of the politest among them, though

though in the Form of a Poet, yet with the Wisdom of a Philosopher, and the Conscience of a Casuist, says as follows :

————— *Vir bonus est quis ?*

Qui consulta Patrum, qui Leges, Juraque servat.

Thereby describing and defining the indispensable Duty (and affording us an Essential Characteristic) of the truly wise, honest and virtuous Man.

Nor are we wanting in wise Men enough of our own Country, and some of them, the greatest Sages of the Law, who have given good Counsel also to the Judges themselves, who were to represent their Prince's Person on the Seat of Justice in their foreign Dominions ; and with relation also to the Governors, who have been there establish'd : But for me to repeat what has been said of that kind, might look like prescribing Laws to Solon, or reading a Lecture of War to Hannibal. I shall therefore only conclude with that Golden Rule of the Great Lord Chancellor Bacon to Sir William Jones, when he went over Lord Chief Justice of Ireland ; " That the true Temper of a Chief Justice " towards a Deputy is, neither servilely to second him, nor factiously to oppose him."



THE
Royal Charter
For Establishing a
CIVIL GOVERNMENT
AT
GIBRALTAR.
WITH
The ORDERS of COUNCIL
Which have been made for the further
Improvement of the same.

—*Nec tumultum*
Nec mori per vim metuam ;
Tenente CÆSARE terras.

HOR.

C O N T E N T S.

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In Page 28, at the top, for Anslow read Onslow.

GEORGE the
Second, by the Grace
of GOD, of *Great-Bri-*
tain, France, and Ireland,
King, Defender of the Faith,
&c. To all to whom these
Presents shall come, *Greeting.*

WHEREAS it hath been repre-
sented unto Us, that the Court erect-
ed by Letters Patent, under the Great
Seal of *Great Britain*, bearing Date
the Fourth Day of *November*, in
the Seventh Year of the Reign of our
A late

late Royal Father, for the Tryal of Civil Causes within our Town of *Gibraltar*, is not vested with Powers Necessary, and Requisite to answer all the Ends of such a Court. And whereas it hath been also represented unto us, that many and great Inconveniencies have arisen, and may hereafter arise, within our said Town, for want of a Jurisdiction for the Tryal of Criminal Causes. We, taking the same into our Royal Consideration, and being desirous that Justice may be equally administred to all our Subjects, have granted, ordained, directed, and appointed, and by these Presents do, for Us, our Heirs and Successors, grant, ordain, direct, and appoint, that a Court of Judicature be erected : And we do hereby erect and constitute a Court at *Gibraltar* aforesaid, to be called by the Name of
of

of *The Court of Civil Pleas* at *Gibraltar*, and to consist of one Person, learned in the Laws of *England*, and two other Persons, Inhabitants at *Gibraltar*, who shall hold their respective Offices *during our Pleasure, and the Pleasure of Us, our Heirs and Successors, to be signified under our, or their Sign Manual.* The Person learned in the Laws to be stil'd the Chief Judge of that Court. And our Will and Pleasure is, and we do hereby constitute and appoint *Robert Robinson*, Barrister at Law, to be the First Chief Judge, and *Richard Holroide*, and *William Chalmers*, Esquires, to be the other two Judges of the said Civil Court. And our farther Will is, that the Successors of the said Chief Judge, and the other two Judges shall be appointed by Us, our Heirs and Successors, under our, or their Sign

I.

II.

- Manual: And that the Court
- III. abovementioned, of *Civil Pleas*, shall be determinable at the Pleasure of Us, our Heirs or Successors. We
- IV. will moreover, that all Matters in the said Court be determined by the Majority of the three Persons constituting the said Court for the Time being; or if, by the Death, Absence or Removal of any of them, there shall happen to be but two, or one, then by such two or one. And we do hereby give full Power and Authority to
- VI. the said Court, to hold Plea of, and to hear, and determine, in a Summary Way, in the Manner herein after prescribed, all Civil Causes and Pleas, of what Nature or Kind soever, arising *within*, and *between any Persons being in Gibraltar, or the Lands thereunto belonging; or when the Defendant resides there.*
- And

And our further Will and Pleasure is, and we do by these Presents, for Us, our Heirs and Successors, direct, ordain, and appoint, that, upon a Complaint or Demand to be made in Writing to the said Court, by any Person or Persons, against any other Person or Persons whatsoever, residing, or being within the said Town, or the Lands thereunto belonging, of any of the Causes of Suit aforesaid, already accrued, or which shall, or may hereafter accrue; the said Court shall, and may issue a Summons in Writing, under the Hand of any one of the said Judges for the Time being; to be directed to the *Provost Marshal*, or *such other Officer* as the said Court shall from Time to Time appoint, containing the Substance of the said Complaint, and requiring the Party or Parties, Defendant

VII.

VIII.

fendant or Defendants, to appear before them at a certain Time and Place therein to be appointed, to Answer to the said Complaint ; or in Case the Demand shall be merely Personal, of the Value of Ten Pounds or upwards, of the Truth and Reality of which an Affidavit shall be made ; then the said Court (instead of the said Summons) shall, and may, issue forthwith a Warrant under the Hand and Seal of any one of the said three Judges for the Time being, to be directed as aforesaid, to take the Body or Bodies of such Defendant or Defendants ; and either to bring them before the said Court at a certain Time and Place therein to be appointed, to Answer to the said Complaint, or to take sufficient Security for their Appearance at such Time and Place ; and in Case of Appearance accordingly,
on

on such Arrest of the Body or Bodies of such Defendant or Defendants, to let such Defendant or Defendants out to Bail, upon giving sufficient Security (which we do hereby empower the said Court to take) to abide and perform *the final Order and Judgment of the said Court, or the final Order and Judgment to be given upon any Appeal to be thereupon brought*; and in default of finding Bail, or giving such Security as aforesaid, to detain such Defendant or Defendants in Custody, until he, she, or they, shall have found such Bail, or given such Security as aforesaid, or shall have performed such Judgment, or Sentence, or shall have Judgment or Sentence given for him, her, or them, upon such Complaint. And we do hereby further direct, that after the Defendants

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IX.

Appearance to Answer such Complaint ; or in default of such Appearance, after due Service of the said Summons or Execution of the said Warrant, to be prov'd by Affidavit ; the said Court shall, and may proceed to the Examination of the Matter and Cause of such Complaint ; and upon due Proof made thereof, either upon the Oath, or Oaths of any Witness, or Witnesses, (or solemn Affirmation, in Case of *Quakers* being Witnesses) to be examined *viva voce*. For which Purpose, We do by these Presents impower, and require the said Court to Administer an Oath, or solemn Affirmation, to such Witnesses as shall be produced by either Party, Plaintiff or Defendant, (whose Evidence shall be taken down in Writing, and that, together with all the Proceedings, shall be entred
of

of Record) or by the voluntary Confession of such Defendant or Defendants, to give Judgment and Sentence according to Justice and Right, and such Costs of Suit as shall be reasonable, and to award and issue out a Warrant, or Warrants, of Execution under the Hand and Seal of any one of the said three Judges for the Time being, for putting the Complainants into Possession of the Houses, Lands, Tenements, or other things which shall be specifically adjudged to them ; and also for levying the Debts, or Sums of Money, and Costs of Suit, which shall be adjudged to the Complainants, upon the Body, or Goods, Houses, Lands, Tenements and Hereditaments of the Person or Persons against whom such Judgment shall be, (but in Case of any Soldier, or other Person, in actual Pay, as a

B Member

Member of the Garrison, his Person shall not be arrested or imprisoned, or taken in Execution, without leave of the Governor first obtained for that Purpose) and to cause Sale to be made of the said Goods, Houses, Lands, Tenements and Hereditaments so taken in Execution, or so much thereof as shall be necessary, rendering to the Party the Overplus, if any be : And for want of sufficient Estate and Effects, to be taken in Execution ; We do hereby, for us, our Heirs and Successors, give full Power and Authority to the said Court, to Imprison the Defendant or Defendants, until Satisfaction be made by him, her, or them, to the Complainant or Complainants of the Debt or Sum of Money decreed, together with the Costs, except the Defendant or Defendants shall be a Soldier, or Soldiers,

diers, or in actual Pay, as a Member, or Members of the said Garrison; in which Case they shall not be imprison'd without Leave as aforesaid; and in Case Judgment shall be given for the Defendant or Defendants, we do hereby likewise give full Power and Authority to the said Court to award Costs to such Defendant or Defendants, and to issue the like Process of Execution for the same, as in Cases where Costs are awarded to any Complainant or Complainants. And in all Cases, if either Party shall find him, her, or themselves aggriev'd by any Judgment or Decree to be given, or pronounced by the said Court; our Will and Pleasure is, that he, she, or they shall, and may *Appeal* to the *Court of Appeals* herein after constituted for the Time being, whose Determination shall be final, except in Cases

XI.

XII.

where the Matters in Controversy shall be of the Value of Two Hundred Pounds Sterling, or upwards ; in which Case an *Appeal* shall lie from the said *Court of Appeals*, to Us, our Heirs and Successors in Council, the Party appealing, either first performing the Sentence, or giving Security to perform it, in Case it should be affirmed, or such other Judgment as shall be given thereupon, by Us, our Heirs and Successors in Council. But nevertheless our Will is, that in all Cases, whether Real or Personal, in which the Right of Us, our Heirs and Successors shall be concerned, or may be affected, or where they concern Lands, Tenements or Hereditaments, an Appeal shall be allow'd to Us, our Heirs and Successors in Council, though the Value be under the Sum of Two Hundred Pounds ;

Pounds ; and that this shall not be intended to prejudice the Right of Us, our Heirs and Successors, to admit of an Appeal in any other Cases, wherein We, our Heirs and Successors shall think fit, tho' the Value be under Two Hundred Pounds.

And for the preventing Persons from withdrawing themselves out of the Jurisdiction of the said Court, and thereby evading Justice, our further Will and Pleasure is,

XIII.

That upon a Complaint exhibited in Writing to the said Court, in any of the Causes aforesaid, an Affidavit made, verifying in Substance, the Contents of such Complaint, and shewing sufficient Reason to induce the said Court to believe, that the Defendant intends to withdraw himself out of the Jurisdiction of the said Court, the said Court shall have Power to issue a Warrant to Arrest such Defendant or

XIV.

Defendants, and to detain him, her or them in Custody, until he, she, or they shall have given sufficient Security not to depart out of the said Town, and the Lands thereunto belonging, without further Order of the said Court. We Will moreover, That the said † Court may also appoint proper Officers to serve their Summons, execute their Orders, enter all their Proceedings upon Record, and to do all other Things necessary to the Execution of Justice therein ; and that they may also settle such Rules and Orders concerning the Methods of their Proceedings, the Fees of their respective Officers, and the Practice of the Court, as they shall think fit ; so as such Rules and Orders may, as far as the Circumstances of the Case will admit, *resemble the summary*

† This Power is vested solely in the Chief Judge, pursuant to an Act of Council, dated July 16, 1741, which see, p. 28.

mary Proceedings here in England. But nevertheless We will, before the Fees be finally settled, that a Table thereof be sent to us for our Royal Approbation in Council: And further we Will, that the said Court may have Power to do all Things necessary for the † Administration: But nevertheless we Will, that the Laws of *England* be the Measure of Justice between the Parties.

A N D further we have granted, ordained, constituted and appointed, and by these Presents do, for us, our Heirs and Successors, grant, ordain, constitute and appoint, that a Court of Judicature be erected at *Gibraltar* afore said, to be called by the Name of *The Court of Appeals at Gibraltar*, and to consist of the Chief Judge of the *Court of Civil Pleas at Gibraltar*, for the Time being, and four other Persons to be appoin-

XV.

† Collated with the Original Record, which is extant in the *Petit-bag-Office, Chancery-lane.*

appointed by us, our Heirs and Successors for the hearing of Appeals : Such Persons to hold their Offices *during the Pleasure of Us, our Heirs and Successors, to be signified under our, or their Sign Manual.* And our Will and Pleasure is, and we do hereby appoint *Edward Pearson, William Jenkins, William Groves, and James Reed*, Esquires, to be the first Four Persons to be joined with the Chief Judge, to constitute the said *Court of Appeals*; and the Successors of such Four Persons to be appointed under the Sign Manual of us, our Heirs and Successors.

XVI. And We will, That the said Chief Judge, *and the said Four Persons, or the Majority of them, or of any four of them being present,* shall, and may have full Power to determine the Appeal. But nevertheless our Pleasure is, that no
Court

Court of *Appeal* shall be held 'till after four Days Notice given to each of them, the said Chief Judge, and four Persons, of the Time and Place of holding such Court, if they, the said Chief Judge, and four Persons, be then residing at *Gibraltar* ; or to such four of them as shall be then at *Gibraltar*. And our further Will and Pleasure is, That the Court erected at *Gibraltar* by our late Royal Father, King GEORGE the First, by his Letters patent, bearing Date the Fourth Day of *November*, in the Seventh Year of his Reign be determined and dissolved : And we do by these Presents for Us, our Heirs and Successors, determine and dissolve the same Accordingly.

XVII.

We will moreover, That the Governor, or Commander in Chief for the Time being, the said Chief
C Judge

XVIII.

Judge, and the said two other Judges of the said Court of *Civil Pleas*, for the Time being, be Justices of the Peace, of Us, our Heirs and Successors within the Town of *Gibraltar*, and the Lands thereunto belonging.

XIX.

And we do hereby, for Us, our Heirs and Successors, will, grant, or-
dain, direct and appoint, That the Governor, or Commander in Chief of *Gibraltar*, for the Time being, and the said Chief Judge, and the said two other Judges of the said Court of *Civil Pleas*, for the Time being, be a Court of *Criminal Jurisdiction*, to hear and determine, according to the Laws of *England*, all Murders, Felonies, Trespasses, and other Crimes, of what Nature or Kind soever (Treasons excepted) arising within the Town of *Gibraltar*, and Lands thereunto belonging; unless
the

the Offender be a Person in actual Pay, as a Member of the Garrison, and the Offence be punishable by Virtue of the Articles of War ; and that any two of them being present, (the Chief Judge being always one) be sufficient to make a Court, and proceed to administer Justice. We will moreover, That the Method of Trial, giving Judgment, and doing Execution in respect of all Crimes, be as near as may be (considering the Circumstances and Situation of Things at *Gibraltar*, and the State and Condition of the Inhabitants thereof) according to the Laws of *England*. And our further Will and Pleasure is, and we do by these Presents, for Us, our Heirs and Successors, give, and grant, full Power and Authority to the Court aforesaid, to administer Oaths, and issue Process, and to make a Table of

XX.

XXI.

Fees, to be transmitted to Us for our Royal Approbation in Council, and to appoint Officers for summoning Grand and Petty Juries, arresting Offenders, conveying them to Prison, and doing Execution according to the Judgment; and to do all other things necessary to the Administration of Justice in the Matters subject to their Jurisdiction. But nevertheless our Will is, That no Execution in Capital Cases be done without the Consent of the Governor, or Commander in Chief for the Time being; and of the Chief Judge for the Time being; and if it should happen they should not agree thereupon, or that they should agree to suspend the Execution, that then, and in either of these Cases, they do forthwith make Application to Us, our Heirs and Successors, for our, or their Roy-

Royal Determination thereupon. XXII.

We will moreover, that the Witnesses be examin'd *viva voce* upon Oath in open Court; and that the Evidence be taken down in Writing, and that, together with all the Proceedings, be entred of Record.

And further we will, That all XXIII.

Fines, Amerciaments, and other Profits, by Reason of the said Court, or of any Judgment or Execution thereupon, be reserved; and we do accordingly reserve the same to Us, our Heirs and Successors. And further, we do, by these Presents, for Us, our Heirs and Successors declare, That the Governor, or Lieu-

XXIV.

tenant Governor, or Commander in Chief for the Time being, have not any Right, Title, or Authority to Arrest, Imprison, Try, Judge, or Condemn, by Military Law, or Articles of War, any of the Inhabitants

bitants of *Gibraltar*, or within the Limits aforesaid, not being Persons actually in Pay as Members of the Garrison, except only during such Time as *Gibraltar* shall be actually Besieg'd, or in such Cases as concern the Safety of the Town during a War with *Spain*. Provided nevertheless that this Declaration, or any the Matters herein before contained, shall not extend to prevent the said Justices of the Peace, or the said Court of *Criminal Jurisdiction*, from Arresting, Imprisoning, or Detaining any Persons for Treasons, in order to their Trial in *England* according to Law. And further,

XXV. our Will and Pleasure is, That the said Chief Judge, and the other two Judges hereby appointed, as also the Persons hereby appointed to be joined with the said Chief Judge, to constitute the Court of

Ap-

Appeals, and their Successors respectively, do, before they shall severally and respectively act in their respective Offices, take the Oaths appointed by an Act of the First Year of the Reign of our late Royal Father King GEORGE the First, Intituled, [*An Act for the further Security of his Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for extinguishing the Hopes of the pretended Prince of Wales, and his open and secret Abettors ;*] and likewise subscribe the Declaration in an Act of the Five and Twentieth Year of the Reign of King CHARLES the Second, Intituled, [*An Act for the preventing Dangers which may happen from Popish Recusants.*] And we do hereby appoint the said several Persons
herein

herein named, to take the same before the Governor, or Commander in Chief, for the Time being, who shall be at *Gibraltar*, and the Successors of the said several Judges, to take the same in the said Court of *Civil Pleas*, of which a Record shall be made. And we do by these Presents give full Power and Authority to the said Governor or Commander in Chief, and the said Court respectively, to Administer the said Oaths and Declaration Accordingly. And we do hereby

XXVI. Direct, That the said Chief Judge, and the said other Judges shall, before they Act in the said Offices, take the following Oaths : *I A. B. do Swear, that I will faithfully, and impartially, according to the best of my Skill and Knowledge, execute the Office of one of the Judges of the Courts of Gibraltar : So help me*

me God: Which Oath shall be taken by the Chief Judge for the Time being, before the Lord High Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal; or before Commissioners to be authoriz'd under the Great Seal of *Great Britain*, and the Oath to be taken by the other Judges respectively, shall be taken before the Chief Judge of *Gibraltar*, for the Time being; to each of whom respectively, Power is hereby given, to Administer the said Oath. And we do further Direct, That the said Chief Judge, for the Time being, shall also Administer to the said four Judges, who shall constitute the the said Court of *Appeals*, and to their Successors the following Oath: *I A. B. do Swear, that I will faithfully and impartially, according to the best of my Skill and*
D Know-

Knowledge, execute the Office of one of the Judges of Appeal at Gibraltar :

- XXVII. *So help me God :* Reserving always to Ourselves, our Heirs and Successors full Power, by Letters Patent under the Great Seal of *Great Britain*, or by Order of Us, our Heirs and Successors, in Council, to make such Alterations in these Presents as shall be thought necessary or convenient. And lastly, we do by these Presents, for Us, our Heirs and Successors, declare and grant,
- XXVIII. That these our Letters Patent, or the Inrollment or Exemplification thereof, shall be as well unto the said Courts hereby established, as unto all, and every other Person or Persons whomsoever, a sufficient Warrant and Discharge from Time to Time, for whatsoever they shall do or execute in pursuance of our
Royal

Royal Will and Pleasure herein before
 declar'd. In Witness whereof we
 have caused these our Letters to be
 made Patent. Witness Ourself at
Westminster, the Tenth Day of *May*,
 in the Thirteenth Year of our
 Reign,

By Writ of Privy Seal,

B I S S E.

(L. S.) *At the Council Chamber, Whitehall,
the 16th Day of
July, 1741.*

P R E S E N T,

Their Excellencies the Lords Justices,

Archbishop of Canterbury.

Duke of Devonshire.

Duke of Montagu.

Duke of Newcastle.

Sir Charles Wager.

Lord President.

Lord Monson.

Earl of Cholmondeley. *Arthur Anslow, Esq;*

Earl of Abercorn. *Stephen Poyntz, Esq;*

Viscount Torrington. *Tho. Winnington, Esq;*

UPON Reading at the Board,
a Report from a Committee of the Lords of his Majesty's Most Honourable Privy Council,
dated

dated the 26th of last Month in the Words following, *viz.*

YOUR Excellencies having, by your Order in Council of the 18th of this Instant, referr'd unto this Committee, the Humble Memorial of Robert Robinson, Esq; setting forth, that his Majesty hath been pleas'd to constitute him Chief Judge of the several Courts of Judicature, which have been erected at Gibraltar, by Letters Patent under the Great Seal of Great Britain, bearing Date the 10th Day of May, 1740. That in the said Courts there are several Judges join'd in Commission with the Memorialist; and the Power of appointing Ministerial Officers is lodged and vested in the said several Courts, and not solely in the Memorialist. Whereas he apprehends, that the Power of appointing proper Ministerial Officers in the said Courts, should be solely lodg'd and vested in the Memorialist, as he, in Quality of Chief Judge of the said Courts, is solely answerable for the Acts of the said Courts. That the Memorialist conceives it will be necessary for him to provide and take with him to Gibraltar several Officers, (to wit,) a Clerk of the Crown, or of the Peace; and another
able

able and sufficient Person, to discharge or execute the Place of Prothonotary, or Chief Clerk of the Civil Proceedings there; and likewise several other subordinate and inferior Officers, as it is improbable that any should be found there qualified for these Offices, especially for those two principal ones; and in regard, it is customary for his Majesty's Chief Judges in England, and in other Places of his Majesty's Dominions, to have the sole Nomination and Appointment of their Ministerial Officers; and that as there is a Power reserved to his Majesty to vary the said Letters Patent from time to time, by Order in Council, the Memorialist therefore humbly prays, That your Excellencies will be pleased to order, That the sole Disposal of all Places and Offices belonging to the said respective Courts shall be solely vested and lodg'd in the Memorialist. The Lords of the Committee, in Obedience to your Excellencies said Order of Reference, this Day took the said Memorial, as also the Letters Patent therein mentioned, into Consideration; and do find, that by the said Letters Patent, the Memorialist is appointed the first Chief Judge of the Court of Civil Pleas, at Gibraltar; and that the Power of appointing Officers to serve Summons's

mons's, execute Orders, and enter the Proceedings upon Record, and to do all other Things necessary to the Execution of Justice, is vested in the said Court of Civil Pleas; and that by a Clause in the said Letters Patent, full Power is reserved to his Majesty, by Order in Council, to make such Alterations in the said Letters Patent, as shall be thought necessary and convenient; and their Lordships, being of Opinion, that great Inconveniences may arise, if it should be understood that the Nomination and Admission of the said Officers of the said Court of Civil Pleas were not in the Chief Judge solely, but in him, and the other Judges; do therefore propose, that your Excellencies may be pleased, by Order in Council, to direct, that the Memorialist, and the Chief Judge, for the Time being, should have the sole Power of nominating and admitting the said Officers of the said Court of Civil Pleas.

THEIR Excellencies the Lords Justices, this Day took the said Report into their Consideration, and were pleased, with the Advice of his

his Majesty's Privy Council, to approve thereof, and to order that the sole Power of nominating and admitting the said Officers of the said Court of *Civil Pleas* in *Gibraltar* be, and it is hereby vested in the Memorialist, and also in the Chief Judge of the said Court, for the Time being.

(L. S.) *At the Council Chamber, Whitehall,
the 4th Day of
August, 1741.*

P R E S E N T,

Their Excellencies the Lords Justices in Council.

UPON reading at the Board, the Memorial of *Robert Robinson, Esq;* Chief Judge of *Gibraltar*, setting forth that there will be a want of Seals, to be used in the several Courts of Judicature, to be erected there, — and proposing that the same may be engraved according to the Draught thereto annexed, — Their Excellencies the Lords Justices in Council this Day, took the same into Consideration, and were pleased to approve of the said Draught, and to order, that his Majesty's Chief Engraver of Seals, do forthwith Engrave one Silver Seal, for the Use of the Court of *Civil-Pleas* at *Gibraltar*,

E accord-

according to the said Draught, and of the same Size with those sent to His Majesty's Provinces of *South* and *North Carolina* in *America*; And *John Courand*, and *Andrew Stone*, Esq; Secretaries to the Lords Justices, are to prepare a Warrant for their Excellencies Signature to the said Engraver, as usual upon the like Occasions, and to direct him to lay the said Seal before their Excellencies at this Board, for their Approbation.

(L.S.) *At the Court of St.
James's the 31st Day
of December, 1741.*

P R E S E N T,
The King's Most Excellent Majesty.

Lord Chancellor,	Viscount Lonsdale,
Lord President, (a)	Viscount Tarrington,
Lord Steward, (b)	Lord Harrington,
Lord Chamberlain, (c)	Lord Delawar,
Duke of Rutland,	Mr. Chancellor of
Earl of Grantham,	the Exchequer. (d)
Earl of Abercorn,	Henry Pelham, Esq;
Earl of Ilay,	Sir Charles Wager,
Earl Fitz-Walter,	Sir John Norris.

WHEREAS a New Silver Seal,
prepared by his Majesty's Engraver
of Seals, for the Use of the Court of
Civil-Pleas, and also of the Court of *Ap-
peals at Gibraltar*, was this Day laid be-
fore his Majesty, at this Board, for his Roy-
al Approbation; which Seal, on one Side,
represents his Majesty sitting enthroned
E 2 in

(a) Earl of Wilmington, (c) Duke of Grafton,
(b) Duke of Dorset, (d) Sir Robert Walpole.

in his Royal Robes, with the Crown and two Scepters, as likewise his Majesty's Arms, Garter, and Crown, over his Head, attended, on his Right-Hand, by *Courage* and *Concord*, represented by the *Lyon* and *Hercules* holding *Discord* in Chains at his Majesty's Feet; and on his Left-Hand, *Britannia*, holding a Shield charged with the *British* Arms: Behind them stands *Minerva*, introducing *Peace* and *Plenty*, with this Inscription round the Circumference, GEORGIUS·II·DEI·GRATIA·MAG·BRITANNIÆ·FRANCIÆ·ET·HIBERNIÆ·REX·FIDEI·DEFENSOR. And on the other Side represents a View of a Castle upon a Rock, mounted with Cannon and Soldiers, with the *British* Flag displayed on the Top of it, charged with the *Union Cross*, and a Ship under Sail going into the Bay, with this Inscription round the Circumference, BRUNSWICEN·ET·LUNENBURGEN·DUX·SAC·ROM·IMP·ARCHI-THESAU·ET·PRINCEPS·ELECTOR·&c. — His Majesty in Council was pleased to declare his Royal Approbation of the said Seal, and to order, as it is hereby ordered, that the same be delivered into the Custody of *Robert Robinson*,

binson, Esq; Chief Judge of the said Courts,
to be made use of in all Acts of the
said Courts, wherein the same shall be
proper and necessary, according to the
Practice of other Courts of the like Na-
ture.

TEMPLE STANYAN.

I. The Court of Civil Pleas to con-
sist of a Chief Judge, and of two
other Judges; the Chief Judge to be a
Barrister at Law; the other two Judges
to be Residents of the Place.

II. To be a Chief Judge, and Judge in Ci-
vil Pleas, to be appointed under the Sign
Manual.

III. The Court of Civil Pleas determinable
at Pleas.

IV. The Judgment of the Court to be pur-
suant to the major Voice.

~~to be made out of the Court, which the same shall be proper and necessary according to the practice of other Courts of the Na-~~

MINUTE *or* ABSTRACT OF THE CHARTER of GIBRALTAR.

- I. **T**HE Court of *Civil-Pleas* to consist of a Chief Judge, and of two other Judges; the Chief Judge to be a Barrister at Law; the other two Judges to be Inhabitants of the Place.
- II. Future Chief Judge, and Judges at *Gibraltar*, to be appointed under the Sign Manual.
- III. The Court of *Civil-Pleas* determinable at Pleasure.
- IV. The Judgment of the Court to be pursuant to the major Vote.

One Judge sufficient to give Judgment V.
in the Absence of the rest.

The *Civil-Court* hath a Jurisdiction in VI.
all Civil Causes and Pleas, arising within
and between any Persons, being in *Gibraltar*, or the Lands thereunto belonging,
or *when the Defendant resides there.*

Upon Complaint *in writing*, being made VII.
to the *Civil-Court*, by any Person against
any Person, residing in *Gibraltar*, or its
Precincts, with relation to any Cause (cog-
nizable by the *Civil Court*) which hath
already accrued, or which shall hereafter
accrue; the Court may issue out Summons
in writing, *under the Hand of any one of*
the Judges (to be directed to the proper
Officer) containing the Complaint in Sub-
stance, and requiring the Party to appear
before them at the Time and Place ap-
pointed, to answer to the Complaint.

Upon Affidavit, that the Defendant VIII.
owes Ten Pounds, or upwards; the Court
(instead of the Summons) to issue a War-
rant *under the Hand and Seal* of any one
Judge to take the Defendant, and bring
him

him before the Court. The Court hath a Power to take Bail for Defendant's abiding its final Order and Judgment, or the final Order and Judgment of the Court of *Appeal*, or in default of Bail, Defendant to remain in Custody.

- IX. After Defendant's Appearance to answer the Complaint, or in case of Default to appear after Affidavit of Service, the Court to proceed to try the Cause, and upon due Proof or voluntary Confession to give Judgment and Costs of Suit, and to award Warrant of Execution *under the Hand and Seal* of any one Judge for putting Plaintiff into Possession of Lands, Houses, Tenements, or other Things, and for levying the Debt and Costs of Suit upon the Body, Goods, Houses, Lands, &c. of the Person against whom Judgment is given, and to cause Sale of them to be made, rendering to the Party the Overplus. And for want of Effects and Estate, Defendant to be imprisoned till Satisfaction made of Debt and Costs.

- X. Soldiers not to be imprisoned (in any *Civil-Plea* or Action) without Leave of the Governor.

Where

Where Judgment given for Defendant, XI.
Costs to be awarded to Defendant, and
Execution to be awarded.

An Appeal to be admitted in all Cases XII.
to the Court of *Appeals* and the Determination of the Court of *Appeals* to be final, unless where the Matter is of the Value of 200 *l.* or upwards, or concerns the Right of the Crown, or Lands, and Tenements or unless, where his Majesty shall think fit to allow of an *Appeal*, and in any of the Cases here excepted, an *Appeal* lies from the Court of *Appeals* to his Majesty in Council, provided the Appellant either first performs the Sentence, or gives Security for performing the Judgment of the Council Board. *IVZ*

Upon Complaint, in writing, exhibited to the Court in any Cause, and upon Affidavit to induce the Court to believe that Defendant designs to withdraw; the Court to Arrest Defendant, and to oblige him to give Security not to depart out of the Town, before the Debt is satisfied. *IVX*

The Court to appoint Officers, and to settle Rules and Orders, concerning Fees, XIV.
F and

and the Practice of the Court, so as such Rules and Orders may approach to a Resemblance of the summary Proceedings in *England*; but before Fees are finally settled, a Table of them to be sent for the Approbation of the Council; the Laws of *England*, to be the Measure of Justice,

XV. The Court of *Appeals* to consist of the Chief Judge of the Court of *Civil Pleas*, and of *four other Persons*, (who are to hold their Offices during Pleasure) Successors to be appointed under the Sign Manual.

XVI. The Chief Judge and the four Judges of *Appeals*, or the MAJORITY OF THEM or of any four of them being present, to determine the *Appeal*: No Court of *Appeal* to be held till after four Days Notice given to the Chief Judge, and the four other Judges of *Appeal*, of the Time of holding the Court, or to such four Judges of *Appeal*, who are then at *Gibraltar*.

XVII. The Court erected at *Gibraltar*, by Letters Patent, bearing Date, 4th November, in the Seventh Year of *George I.* determined and dissolved by this Charter.

The

The Governor or Commander in Chief, XVIII.
the Chief Judge, and the two other Judges
of the Court of *Civil-Pleas*, to be Justices
of the Peace, within *Gibraltar*.

The Governor or Commander in Chief, XIX.
and the Chief Judge, and the two other
Judges of the Court of *Civil-Pleas*, to be
a Court of Criminal Jurisdiction, to hear
and determine (*according to the Laws of*
England) all Murders, Felonies, Tres-
passes, and other Crimes of what Nature
or Kind soever (Treasons excepted) unless
where the Person is a Member of Garrison,
and the Offence be punishable by Articles
of War; two to make a Court (*Quorum*
unus, the Chief Judge.)

The Method of Trial, giving Judg- XX.
ment, and doing Execution, be *as near as*
may be (considering the Circumstances and
Situation of Things at Gibraltar, and the
State and Condition of the Inhabitants) ac-
cording to the Laws of *England*.

The Court of Criminal Jurisdiction to XXI.
administer Oaths, issue Process, and to
make a Table of Fees, to be approved in
F 2 Coun-

XXIX. Council; and to appoint proper Officers, &c.

XX. No Execution in Capital Cases to be done without the Consent of the Governor, or Commander in Chief, and of the Chief Judge; and where they do not agree, they are forthwith to apply to the Throne for a Determination.

XXII. The Witnesses to be examined, *Viva Voce*, in open Court: The Evidence and all the Proceedings to be entered upon Record.

XXIII. Fines and Amerciaments to be reserved to the King.

XXIV. The Governor, or Commander in Chief, to have no Power to Condemn any Inhabitant of *Gibraltar*, by Military Law, or Articles of War, who is not in Pay as a Member of the Garrison, except during a Siege, or in Cases, which concern the Safety of the Town, during a War with *Spain*; but this Declaration not to extend to prevent the Justices of the Peace, or the Court of *Criminal Jurisdiction*, from arresting

arresting Persons for Treasons, in order to their Trial in *England*.

The Chief Judge, and the other two Judges hereby appointed, as also the Persons appointed to be joined with the Chief Judge in the Court of *Appeals*, to take the Oaths appointed by an Act passed *Primo Geo. I.* — to subscribe the Declaration 25 *Car. II.* These Oaths to be taken, and the Declaration to be made by the first Chief Judge, and the other Judges, who are first made and constituted before the Governor, and to be recorded and afterwards the Oaths to be taken, and the Declaration to be made by all the subsequent Chief Judges, and Judges in the Court of *Civil-Pleas*, and there recorded.

XXV.

The Chief Judge, and other Judges, to take the Oaths of Office prescribed by the Charter: The Chief Judge to be sworn before the Lord Chancellor: The other Judges before the Chief Judge.

XXVI.

A Power reserved to vary this Charter by any subsequent Charter under the great Seal: or by Act of Council.

XXVII.

This

XXVIII.

This Charter, or the Exemplification or Inrollment of it, to be a sufficient Warrant or Discharge to Persons acting under it.

XXIX.

Page 14. l. 3. for [gave] read have.
Page 16. l. 2. dele [of]
Page 27. under the Word Bisse (at the bottom of the Leaf) place (L. M. S.)

XXXI.

The Chief Judge, and other Judges, to take the Oaths of Office prescribed by the Charter: The Chief Judge to be sworn before the Lord Chancellor: The other Judges before the Chief Judge.

XXXII.

A Forfeiture to be made by any person who shall violate the great Seal: or by any other person.



This



